

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA :

SUPERSEDING INDICTMENT

- v. -

: S2 20 Cr. 412 (AT)

TIMOTHY SHEA, :

Defendant. :

- - - - - X

COUNT ONE
(Conspiracy to Commit Wire Fraud)

The Grand Jury charges:

1. From at least in or around December 2018 up to and including in or around June 2020, in the Southern District of New York and elsewhere, TIMOTHY SHEA, the defendant, and others known and unknown, willfully and knowingly, did combine, conspire, confederate, and agree together and with each other to commit wire fraud, in violation of Title 18, United States Code, Sections 1343 and 1346.

2. It was a part and object of the conspiracy that TIMOTHY SHEA, the defendant, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and

sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343, to wit, contrary to representations made to donors of We Build the Wall that all funds would be used for construction of a wall at the southern border of the United States and that none of the money donated would be used to compensate Brian Kolfage, SHEA and his co-conspirators devised a scheme to defraud those donors by secretly misappropriating funds from We Build the Wall and using them on personal expenses, including compensating Kolfage and operating an energy drink company.

3. It further was a part and object of the conspiracy that TIMOTHY SHEA, the defendant, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and to deprive We Build the Wall of its intangible rights to the honest services of its president, Brian Kolfage, would and did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Sections 1343 and 1346, to wit, SHEA and his co-conspirators devised a scheme for businesses created by SHEA to receive money from We Build the Wall in exchange for SHEA paying a kickback to Brian Kolfage.

(Title 18, United States Code, Section 1349.)

COUNT TWO
(Conspiracy to Commit Money Laundering)

The Grand Jury further charges:

4. From at least in or around December 2018 up to and including in or around June 2020, in the Southern District of New York and elsewhere, TIMOTHY SHEA, the defendant, and others known and unknown, intentionally and knowingly did combine, conspire, confederate, and agree together and with each other to violate Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 1957(a).

5. It was a part and an object of the conspiracy that TIMOTHY SHEA, the defendant, and others known and unknown, in an offense involving interstate and foreign commerce, knowing that the property involved in certain financial transactions, to wit, wire transfers and checks, represented the proceeds of some form of unlawful activity, would and did conduct and attempt to conduct such financial transactions, which in fact involved the proceeds of specified unlawful activity, to wit, the conspiracy to commit wire fraud alleged in Count One of this Indictment, knowing that the transactions were designed in whole and in part to conceal and disguise the nature, the location, the source, the ownership, and the control, of the proceeds of the specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

6. It was a further part and an object of the conspiracy that TIMOTHY SHEA, the defendant, and others known and unknown, within the United States, knowingly would and did engage and attempt to engage in monetary transactions in criminally derived property of a value greater than \$10,000 and that was derived from specified unlawful activity, to wit, the conspiracy to commit wire fraud alleged in Count One of this Indictment, in violation of Title 18, United States Code, Section 1957(a).

(Title 18, United States Code, Section 1956(h).)

COUNT THREE
(Falsification of Records)

The Grand Jury further charges:

7. In or about October 2019, in the Southern District of New York and elsewhere, TIMOTHY SHEA, the defendant, knowingly did falsify, or cause the falsification of, a document with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of any department or agency of the United States, and in relation to and in contemplation of any such matter, to wit, SHEA created and caused the creation of documents that were falsely backdated and stated false reasons for payments from We Build the Wall to SHEA and from SHEA to Brian Kolfage, with the intent to impede, obstruct, or influence an investigation by the United States Attorney's Office for the Southern District of New York.

(Title 18, United States Code, Sections 1519 and 2.)

FORFEITURE ALLEGATIONS

8. As a result of committing the offense alleged in Count One of this Indictment, TIMOTHY SHEA, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28 United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

9. As a result of committing the offense alleged in Count Two of this Indictment, TIMOTHY SHEA, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1), any and all property, real and personal, involved in said offense, or any property traceable to such property, including but not limited to a sum of money in United States currency representing the amount of property involved in said offense.

10. If any of the above-described forfeitable property, as a result of any act or omission of the defendant: (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third person; (c) has been placed beyond the jurisdiction of the Court; (d) has been substantially diminished in value; or (e) has been commingled with

other property which cannot be subdivided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 982;
Title 21, United States Code, Section 853; and
Title 28, United States Code, Section 2461.)



FOREPERSON



DAMIAN WILLIAMS
United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

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TIMOTHY SHEA,

Defendant.

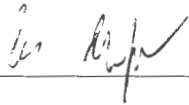
SUPERSEDING INDICTMENT

S2 20 Cr. 412 (AT)

18 U.S.C. §§ 1349, 1956, 1519, & 2

DAMIAN WILLIAMS
United States Attorney

A TRUE BILL



Foreperson.

Superseding Indictment

4/21/22
KLV

Stewart D. Auman
U.S.M.J.